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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DARRYL HOLLAND, 98-A-0319,

Plaintiff,

-v-

DECISION and ORDER
05-CV-6295P

Commissioner GLENN S. GOORD,
Superintendent ANTHONY ZON,
Commissioner Hearing Officer THOMAS
SCHOELLKOPF, and Correction Officer
J. BARBERA,

Defendants.

Plaintiff has filed two motions for appointment of counsel (Docket Nos. 6 and 7). There is no constitutional right to appointed counsel in civil cases. However, under 28 U.S.C. § 1915(e), the Court may appoint counsel to assist indigent litigants. *See, e.g., Sears, Roebuck & Co. v. Charles W. Sears Real Estate, Inc.*, 865 F.2d 22, 23 (2d Cir. 1988). Assignment of counsel in this matter is clearly within the judge's discretion. *In re Martin-Trigona*, 737 F.2d 1254 (2d Cir. 1984).

At this early stage in the proceeding, the Court has only the plaintiff's pleading to review, because service of the Summons and Complaint has not been made. There is insufficient information before the Court at this time to make the necessary assessment of plaintiff's claims under the standards promulgated by *Hendricks v. Coughlin*, 114 F.3d 390, 392 (2d Cir. 1997), and *Hodge v. Police Officers*, 802 F.2d 58 (2d Cir. 1986). Therefore plaintiff's motions for appointment of counsel are denied without prejudice at this time. It is the plaintiff's

responsibility to retain an attorney or press forward with this lawsuit *pro se*. 28 U.S.C. § 1654.

In order to assist plaintiff in pursuing this case *pro se*, the Clerk of the Court is directed to send plaintiff the Court's booklet entitled Pro Se Litigation Guidelines.

SO ORDERED.

DATED: Rochester, New York
November 10, 2005

s/Marian W. Payson

MARIAN W. PAYSON
United States Magistrate Judge